

AN ABRIDGED VIEW
OF THE
ALIEN QUESTION UNMASKED

YORK, 1826



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ALIEN QUESTION
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By the Editor of the Canadian Freeman.



YORK:

PRINTED AT THE FREEMAN OFFICE.

1826.

To the loyal, patriotic, and independent Anglo-Americans of Upper Canada, with a hope that the rights and privileges of British Subjects, of which they proved themselves worthy in the day of peril, may never be wrested from them by the illiberal policy of their enemies, this small Pamphlet is respectfully dedicated by

Their very obedient

And humble servant

The Canadian Freeman.

YORK:

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1831

AN
ABRIDGED VIEW,

&c. &c. &c.

AS the agitation of the Alien Question has excited unusual interest in the public mind, and the most gross misrepresentations have gone abroad, both as respects the sufficiency of the alien bill, drawn up by the Attorney General, passed by the Honorable Legislative Council, and sent down to the House of Assembly, and the conduct of the latter House in rejecting it, the Editor of the *Canadian Freeman* respectfully submits the following brief view of the leading features of this abortion of legislative wisdom, which would seem to have been generated by the spirit of oppression, under an awful cloud of Egyptian darkness.

As this measure, from the beginning up to the present stage, appears to be one of the most dark and deep political snares that was ever laid for the liberties of a free people, it is essential to view it from as early a date as possible.

At the beginning of the last parliament, assembled in the winter of 1820-1, J. B. Robinson, Esq. His Majesty's Attorney General for this Colony, took his seat for the town of York, which he obtained without opposition, in consequence of the deservedly popular gentleman, (Major Loring,) who intended to have opposed him, having been called upon to join his regiment.—The Attorney General coming into the House under these circumstances, was regarded more as the organ of the Executive than the representative of the good people of York, and from his unusual flow of words, and other good natural talents, although but rudely cultivated, he at once became the leader of the ministerial side.

A number of Anglo-Americans were then returned to the House, and among them Barnabas Bidwell, Esq. a lawyer of deep research, consummate knowledge, and superior talents. Mr. Bidwell, and almost all the Anglo-Americans, joined the popular side, carrying with them a majority of the House, and took a bold and unequivocal stand in favour of the rights and privileges of the people.

By this means, and owing to the sharp-sighted views of Mr. Bidwell, and his profound knowledge of the law, which enabled him to analyze the measures of the ministerialists, and throw in upon them salutary amendments, the plans of the latter were deranged, and many of their favourite projects frustrated.

From this moment, a determination seemed to enter into the minds of the ministerial party to new-model the representation of this Colony, so as to meet their own views; and the Alien Question was selected as the most feasible means of accomplishing this darling object. And as Mr. Bidwell's wholesome amendmendments thrown in with a masterly hand upon the measures of the younger and more inexperienced lawyers, who were basking in the sun-beams of courtly patronage, made them feel not a little feverish in his presence, he became so obnoxious to the ministerial party generally, that they determined to get rid of him by some means or other. With this view, a hired informer was sent to Boston—thirsting after defamation, as the tyger thirsts for blood—seeking from every record in the State of Massachusetts—from the mouth of every political enemy—a stain to be fastened upon his character. In the whole course of this disgraceful inquiry, the most exalted character that ever was borne by any man filling high official situations, turned up in favour of Mr. Bidwell, even from the very mouths of his political enemies.—But while he filled the arduous situations of Attorney General of the State and Treasurer to the County of Berkshire, his clerk, who managed the books in the latter department, made some unfortunate erasure or error which had long since beed made good by Mr. Bidwell, to the last farthing.—This was seized on as a sin against the Holy Ghost, neither to be forgiven in this world nor in the world to

come—the informer delivered in his foul gleanings—the ministerial party pounced upon the character of Mr. B. with that degree of tenderness and mercy which vultures show to lambs—the cry of forgery—felony, &c.—from the hollow voice of *Catharus the political daggerman*, and other official sycophants, reverberated from the vaulted ceiling of the assembly-room, and was heard resonant through every hall in the House—(men who ought to be the ashamed to mention crimes that could be brought so near their own doors)—no respect to the age, the talents, or the universal upright character of the subject then under the dissecting knife of calumny.

Mr. Bidwell was put on his trial—his enemies were conscious of success.—But as the physicians at first tried the effects of vaccination and other experiments on criminals under sentence of death, so did these charitable legislators choose this gentleman as a fit subject for their first experiment against the rights and privileges of a large and respectable portion of their fellow-subjects by means of the Alien Question. As they were afraid to try its individual merits nakedly, they introduced it, as a kind of feeder to the foul Bostonian current of defamation, and having gained a few votes by it, Mr. Bidwell was ousted out of his seat, by a majority of one, in the face of law, justice, and precedent—insomuch, that on a subsequent trial, one member, who had voted against him, publicly asserted in the House, that his having done so was an act which, of all others of his life, he regretted most, on mature reflection. On the day after Mr. B. lost his seat, a bill was introduced, supposed to have been drafted by the Attorney General, to cover the illegality of this proceeding, and to disqualify the whole class of people to which he belonged from taking a seat in the House, in order to prevent his re-election, which otherwise would have followed as a matter of course.

By this transaction, the indignation of every unbiassed man in the colony was excited, and Mr. Bidwell, jr. son to the expelled member, a young man of superior talents was immediately invited to the hustings, in order to fill the seat thus vacated. The returning officer, however, thinking that the Alien Question was finally set at rest by the decision of the House in the above case, or having instructions from the Executive so to do, rejected Mr. Bidwell, jr. on the ground that he, having been born in the U. States, &c. was an alien, and returned Geo. Ham, Esq. an opposing candidate.

Peter Perry, jr. Esq. (now a member for Lenox and Addington) and others, protested against the return, and petitioned the House. The ministerial fleet, buoyed up with the success of the alien side-wind experiment against the father, now put out from their moorings, and ran down full-sail upon the rights and privileges of all the Anglo-Americans in Upper Canada, in the case of the son. The contest came to issue on the above petition—Messrs. Attorney General, Jonas Jones, and Hagerman, took the command on the ministerial side—Messrs. Baldwin, Nichol, Hamilton, and the present Speaker, on the side of the people. The contest was close, sanguinary, and doubtful for three or four days—when the ministerial party began to give way—Then were the “*tears of loyalty*” seen to flow in gentle streams down the cheeks of one of the bravest of their leaders, while rallying his forces—then was one of the famous lachrymal appeals from the “son of a U. E. loyalist,” made without effect—all was in vain—they had to contend with freemen—and were totally routed by a sweeping majority.

This contest closed by making void the return of Mr. Ham, and confirming the eligibility of Mr. Bidwell, jr. who, on a new writ of election being issued, was again brought up to the hustings and returned for the counties of Lenox and Addington.

Thus defeated in open combat, the Anglo-American enemy, sadly discomfited, and with drooping flags, retired into harbour to refit. Fully sensible of their own weakness, and convinced of the inexpediency of another open attack, their thoughts turned wholly upon stratagem. The very men who had strained every nerve, exhausted every argument, and whose loyal tears were seen to flow in the height of

their zeal, with a view to deprive the Bidwells, father and son, of the elective franchise, by means of this very same alien question, at once turned round—assumed an apparently friendly attitude, and under pretence of setting the matter to rest, and allaying the doubts which themselves had laboured to excite, (but with the actual view of obtaining an acknowledgement from the mouths of the representatives of people that the Anglo-Americans were aliens,) introduced a series of Resolutions most graciously promising all the rights and privileges of natural born subjects.—The veteran defenders of the people's rights had now been too long in the field to be thus easily outflanked—Mr. Wilson, our present honorable Speaker rose, and put forth against them the whole powers of his clear and comprehensive mind, in a strain of native eloquence, simple, it is true, in its garb—but powerful and resistless as the mountain torrent.—“Doubt not,” said he, “the rights of people who proved themselves worthy of the name of British subjects in the day of peril—disturb not the minds of those who have been in the peaceable enjoyment of their rights for thirty years—tamper not with a supposed disease, to which you have no power to afford an effectual remedy.”—No allusion was made to the loyal bones of his ancestors in the grave—whose sons were obliged to sit within the same walls with “felons and democrats”—no “loyal tears” were shed—yet the appeal was convincing—the snare was unmasked—and the Resolutions swept out of the House by a large majority.

The failure of this stratagem, put an end to all hopes of success in this trick, unless the home ministry could be induced to turn a card. With this view commissioner after commissioner—lay and ecclesiastical—were sent to London—while the people of the colony were enormously taxed to pay for their underhand services:—representation on representation followed—every shelf in the alien-office was ransacked, but no case was found to suit their views. At last a solitary decision of the Court of King's Bench was had by accident, or designedly got up to meet the case, by the agents of the trick, from the interest and intimacy created among the under-strappers at home, by their many and well-paid for visits. This decision again lifted the draping hopes of the ministerialists in the colony—communications afresh showered about the ears of Earl Bathurst—but cautiously, so as to have the final management of the question under the hands of its first agitators in the colony, to dispose of it according to the original design—namely, to confirm their titles to real estate, but deprive them of the elective franchise.

Earl Bathurst, at last, overcome by importunities, and, in the hurry of business, evidently either not having before his eyes the leading features of our constitutional act, or being implicated in one of the deepest political tricks ever attempted against the liberties of a people, (which is not for a moment to be supposed, as no doubts are entertained of the sincerity of the imperial government) sent out to the Executive of this colony the following document:—

“Extract of a Despatch from the Right Honourable the Earl Bathurst to His Excellency Major General Sir Peregrine Maitland, dated Downing Street, 22d. July 1825.”

“I have had under my consideration the REPRESENTATIONS which I have had the honor of receiving from you, on the subject of Aliens who have become settlers in the Province of Upper Canada, and I regret that it arrived at a period of the Session too late to admit of any measure being proposed to Parliament.

“I am of opinion that it will be advisable to confer by a Legislative enactment, the civil rights and privileges of British subjects upon such citizens of the United States, as being heretofore settled in Canada, are declared by the judgment of the Courts of Law, in England, and by the opinion of the Law Officers to be Aliens; and of including in the same enactment the disbanded Officers and Soldiers of foreign corps, which were in the British service and such other foreigners resident in Canada, as are in truth Aliens, although they have hitherto enjoyed, without question, the rights of British subjects.

“If, therefore, you should deem it expedient to submit to the Legislature of the Province at its next Session, a Bill for the relief of such persons as are now in the Province, I have to convey to you His Majesty's sanction for assenting to it, notwithstanding the general royal instruction on

that subject, and there is no necessity for you to withhold such Bill for the signification of His Majesty's pleasure, *unless it shall pass in such a shape as may make you doubtful of its expediency.*"
 (True Copy.) (Signed) G. HILLIER.

On receiving this despatch, which left it altogether at the discretion of the Executive whether or not the measure should be submitted to the colonial legislature, His Excellency immediately communicated it to both Houses, recommending them to pass a law to meet the case. With this view, he called upon the Attorney General to draft a bill to be submitted to the honorable Legislative Council, in strict accordance with this despatch. Instead of informing his Excellency that this legislature had no power, according to our constitution, to confer on aliens the civil rights mentioned in the despatch, and recommending the Executive to refer the measure back to the imperial legislature, this legal adviser of the crown sat down and drafted the following bill—the greatest anomaly in legislation—the deepest laid snare against the rights of the people—that ever appeared in any country on earth—purporting, on the face of the preamble, to give all the civil rights of natural born subjects, thus extending the boon beyond the power of a colonial legislature, but, in all the enacting clauses, slipping in the two particles "SO THAT" no estates, &c. shall be vested in his Majesty, or titles impeached—thus by a nice legal turn coming up to the original design of depriving every Anglo-American in the colony of the elective franchise:—

AN ACT to confirm and quiet in the possession of their Estates, and to admit to the Civil Rights of subjects, certain classes of Persons therein mentioned.

WHEREAS many persons have become resident in this Province who having been formerly citizens of the United States of America, and being subjects of the Government of those States, have been naturalized as British subjects by any Act of Parliament; *And Whereas* there are also in this Province many persons who came from other foreign countries, and many reduced Officers and discharged Soldiers of foreign corps late in His Majesty's service, but not being subjects of His Majesty by birth or naturalization; *And Whereas it is expedient that all such persons should be confirmed and quieted in the possession of their Estates, AND SHOULD BE ADMITTED TO THE CIVIL RIGHTS OF SUBJECTS*, with such exceptions as have been from time to time provided by Acts of the Legislature of this Province with respect to persons having been resident in the United States of America, or having taken the Oath of Allegiance to their Government; *And Whereas* His Excellency Sir Peregrine Maitland, Knight Commander of the Most Honourable Military Order of the Bath, Lieutenant Governor of the Province of Upper Canada, and Major General commanding His Majesty's Forces therein, has been pleased to signify by Message to both Houses of the Legislature, that he has received His Majesty's express sanction to assent to the passing of such enactment as may afford relief to such persons being now in this Province: Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain entitled an Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, "An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province," and by the authority of the same, that from and after the passing of this Act all persons who at the time of the passing thereof are resident inhabitants of this Province, shall be deemed, adjudged and taken within this Province, to be His Majesty's natural born subjects, to all intents, constructions, and purposes as if they, and every of them, had been or were born within this Province, **SO THAT** no Estates of what nature or kind soever, heretofore purchased by them or any of them within this Province, or to which they or any of them shall have become, or may become, in any manner entitled, shall be liable to seizure into the hands of His Majesty, His Heirs, or Successors, or their titles thereto be otherwise impeached by reason of their making the said purchases, or becoming otherwise entitled, any Statute, Law, or thing whatsoever to the contrary notwithstanding.

II. And be it further enacted by the authority aforesaid, That all persons who have been at any time heretofore resident inhabitants of this Province and become possessed of real estate therein, other than and except such as have been, or hereafter may be under any express provision in the Statutes of this Province declared or found to be Aliens, shall be deemed and taken to have been natural born subjects of His Majesty, **SO THAT** neither their title to any real estate within this province, nor the title of any persons claiming under them, shall be in any manner impeached by any proceeding on the part of His Majesty, His Heirs, or Successors, or otherwise howsoever by reason of their having been Aliens.

III. *Provided always nevertheless*, And be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend or be construed to extend to repeal or make void, or in any manner interfere with any Law of this Province respecting the qualification of persons entitled to vote in the election of Members to be returned to the House of Assembly, or to be returned as members of the said Assembly.

(SIGNED) WILLIAM CAMPBELL, *Speaker.*

Legislative Council Chamber, }
28th November, 1825. }

This bill was submitted to the Legislative Council, passed by that honorable body in the above state, and sent down to the House of Assembly for concurrence. The Attorney General, still the leader of the ministerial side of the House, which, through the agency of reporting the debates, has been reduced in this Parliament to a minority of *ten*, rose to bring this bill before the House, in doing which, he delivered a speech of about five hours—the whole tenor of which, went more to argue, that the Anglo-Americans ought not to have equal rights with natural born British subjects, than to induce a belief that they were entitled to such rights, and ought to enjoy them—incumbered, however, with such a heavy baggage of sophistry, that his real views might appear doubtful. In the course of this untoward harangue, he admitted that he had drawn up the bill, in his official capacity, at the desire of the Executive, and that it would be all-sufficient for the purpose by expunging the word “SO,” in the enacting clauses, and inserting the word “and,” which word “so,” he said had crept into the bill in its passage through the Upper House. He stated, that he would prefer the passing of this bill; but should the majority be of opinion, that this legislature had not the power to legislate upon this question, he had drawn up a series of Resolutions which he would recommend to the House. The Attorney General then read the Resolutions, which were mostly a transcript of those formerly rejected by the House, and concluded by again remarking that he would prefer the bill.

On hearing the bill read, and the arguments of the Attorney General thereon, the popular side immediately saw the cloven foot. The Speaker and Mr. McBride rose alternately, and pressed the Attorney General so closely with questions touching the sufficiency of the bill, in the answers to which his character as a lawyer was so much at stake, that he frankly and openly confessed this bill as drawn up by himself, and passed by the Legislative Council, would be “*unconstitutional, null, and void*,” so far as respects the elective franchise, should it pass into a law, but at the same time, observing, that it was not more unconstitutional than many acts that had been already passed and acted upon in this Province.

This acknowledgement from the first legal adviser of the Executive, together with the deception apparent on the face of the bill, confirmed the suspicions of the majority of the House, and justly excited in their minds the strongest apprehensions as to the purity of the intentions of the colonial executive, and those who acted in conjunction with them from the first introduction of this question. Anxious however, to know the real views of the colonial government, the House addressed His Excellency for a copy of the correspondence with the home government upon the question; but His Excellency refused to comply with this request.

Thus convinced that the whole measure, either in the shape of the bill or resolutions proposed by the Attorney General, was only a continuation of the old trick—another insidious effort of the well-known enemies of the Anglo-Americans, the House took a broad stand against both. But as the consideration of Earl Bathurst's despatch had been so anxiously pressed upon them by His Excellency, they came to a determination to express their opinion upon the subject, without any hopes that their views would meet with the concurrence of either of the other branches of the legislature. With this intention, Mr. Bidwell moved the following amendment to the above bill:—

Amendments made by the Commons' House of Assembly in and to the Bill, entitled, "An Act to confirm and quiet in the possession of their estates, and to admit to the Civil Rights of subjects, certain classes of persons therein mentioned."

In the Title—After the word "Act" expunge the remainder of the Title, and insert "to declare the law respecting the Civil Rights of certain inhabitants of this Province."

Press, 1 line 1—After the word "Whereas" expunge the remainder of the bill, and insert "a very large portion of the inhabitants of this province is composed of persons, who have come from the United States of America, and who were either natural born British Subjects themselves or children of natural born British Subjects, which said persons have, with the knowledge, approbation, and encouragement, and in many cases, in consequence of the invitations of His Majesty's Government, come into, settled, and been received in this province, and been treated and considered as natural born British Subjects, to all intents, constructions, and purposes whatsoever, not only entitled to all the rights, privileges, and immunities, but also subject to all the duties, obligations, and responsibilities of natural born British Subjects, and have manifested the most loyal attachment to His Majesty's Government: And Whereas doubts have lately been expressed whether they are entitled to the rights and privileges of British Subjects, whereby great uneasiness is likely to be excited in the minds of the people of this province, and the honor and good faith of His Majesty's Government are liable to be impeached; and it is therefore expedient for the purpose of removing those doubts to declare the Law upon the subject: Be it therefore declared and enacted by the King's most Excellent Majesty, by and with the consent of the Legislative Council and Assembly of the province of Upper Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, "An Act for making more effectual provision for the Government of the province of Quebec in North America, and to make farther provision for the Government of the said province," and by the authority of the same, that all persons who were born, or whose fathers, or paternal grandfathers, were born in His Majesty's dominions and who have since been resident in this province, (notwithstanding they may have resided in, or been citizens of the United States of America, at or since the period when the independence of the said United States was recognized and acknowledged by His Majesty's Government,) are, and shall be considered to be, and to have been to all intents, purposes, and constructions whatsoever, natural born British Subjects, and to be, and to have been, entitled (subject to any qualifications which the Legislature of this province has from time to time thought it expedient to impose,) to all the rights, privileges, and immunities of natural born British Subjects."

(SIGNED) JOHN WILSON, *Speaker.*

Commons' House of Assembly, }
14th December, 1825. }

This amendment, or declaratory bill, was opposed by the ministerial party with the utmost vehemence. The Attorney General, in a most impassioned tone, said he would suffer death before he would consent to a measure that would confer the rights of subjects on men who, but a few years ago, had "*invaded our country—ransacked our villages—burnt our houses—and murdered our wives and children.*" The provisions of the amendment, though plain and simple in themselves, and confined to the persons now in the colony, were misconstrued into a broad and general admission to the rights of subjects of all Americans who might hereafter choose to come in—It was also openly asserted, in doors and out of doors, that by this declaratory bill, all Americans by crossing the lines, might immediately enjoy the privileges of the elective franchise, although it contained an express proviso subjecting all persons embraced in it to the existing laws, which require seven years' residence, &c. The debate was animated and lasted for four days successively. when it closed with the adoption of the amendment, by a large majority.

This declaratory bill, after passing the House, was sent to the Legislative Council, where it was soon committed to the company of the *six repeals* of the 44th of the late king.

That the House of Assembly, however, acted correctly in passing this bill, and that these Anglo-Americans can never, with the slightest degree of justice, and without an open violation of good faith on the part of the government, be viewed as any thing but natural born British subjects, to all intents and purposes, must appear clear as the sun at noon-day, to any dispassionate mind, on reading the following communication, which lately appeared in the *Canadian Freeman*:—

For the Canadian Freeman.

The Message of His Excellency, the Lieutenant Governor, to the House of Assembly, presents one side of the case of the Anglo-American inhabitants of Upper Canada. It states that the greater part of them became inhabitants of this Province "with the knowledge of the Government." It might have stated, that they became such, not only with the *knowledge*, but with the *approbation*, and not merely with the *approbation*, but under the *encouragement*, and upon the *invitation* of the Government. They were thus invited and encouraged by offers of Crown lands to settle on, and by actual grants of such lands made to them accordingly, upon their becoming settlers; and these lands were thus granted to them from the Crown, not by mistake, or under any misapprehension of their character, but with a full knowledge that they had been resident in the United States at and after the treaty of 1783, which is now considered the criterion of national character.

A series of Acts, Legislative and Executive, and indeed the whole course of the proceedings of the British and Provincial Governments, in respect to them, have recognized and treated them as subjects, from the first settlement of the Province. Those Acts being appropriate to these Colonies, and this Province in particular, and not applicable to the mother country, the claim of the Anglo-American settlers to civil rights, and a capacity of holding land in the Provinces stands on different grounds from the claim of such persons to inherit estates in Great Britain. Yet it was not until 40 years after the treaty of 1783, that there was any decision in Westminster Hall, that the treaty produced the effect of incapacitating a British born subject, resident in the United States at its date, from inheriting real estate in England. In the mean time, there were repeated decisions to the contrary in Scotland. Those cases, however, are clearly distinguishable from that of the Anglo-American inhabitants of this Province, holding lands here.

The limits of this communication will admit of no more than a bare outline of their claim.

Seven years after the treaty of separation, being one year only before the date of our Provincial Constitution, a Statute of the British Parliament, the 30th of Geo. 3d, cap. 37, entitled "An Act for encouraging new settlers in His Majesty's Colonies and Plantations in America," was passed for the professed purpose of encouraging these people, describing them as "subjects of the territories or countries belonging to the United States of America," to come from thence, with their families, into "the territories belonging to His Majesty in North America," particularly mentioning "any part of the Province of Quebec," "for the purposes of residing and settling there," this province being at that time a part of the Province of Quebec. To encourage them thus to come and settle here, they were authorized to be licensed to bring with them property, not exceeding fifty pounds, free of duty.—Such persons, so coming to reside and settle in the Province, were required to take the oath of allegiance, without any probationary period of residence. It was not, indeed, specified what rights they should enjoy as settlers. The very term implies a capacity to take and hold lands for settlement, and there was no intimation of any restriction as to civil rights. The Statute was undoubtedly intended in good faith, and not for the purpose of decoying them into the Province, that, after forty years, they might be disfranchised and alienated, by *ex post facto* construction; and it should be interpreted so as to effectuate the intent, with which it was enacted. In its effect, according to a fair interpretation, it was an act of naturalization of those settlers, or recognition of them as subjects. So it was understood not by them only, but also by the Government, not only of the Province, but likewise of the Parent State, and not only then, but afterwards.

The next year our Constitutional Act, the 31st of Geo. 3d, was passed, by the same Parliament, under the same auspices, and upon the same principles of Colonial policy; and there can be no doubt that the term *subjects*, used in it, was intended and understood to comprehend the settlers under the naturalizing Act of the

preceding year. In that sense these Acts were, and have been, practised upon; and cotemporaneous and continued practice is a good rule for the interpretation of Statutes.

General Simcoe, the first Lieutenant Governor of the Province, having been a member of the British Parliament when both of the Acts were passed, and in the confidence of the ministry that framed them, and organized the Provincial Government under them, in pursuance of his instructions, and in prosecution of the liberal policy of the settling Act, issued a Proclamation, in His Majesty's name, dated February 7, 1792, and caused it to be published in all the northern parts of the United States, addressed "To such as are desirous to settle on the lands of the Crown in Upper Canada," inviting them to come and receive grants of these lands, upon making it appear that they were in a condition to cultivate and improve them, and taking the oaths of allegiance, &c. to which they were to be immediately admitted.

In compliance with that public invitation, and with full confidence in the security and good faith of the British Government, after consulting Counsel in and out of the Province, as to the legal effect of the Acts of 30th and 31st Geo. 3d, several thousand of such settlers, from time to time, became inhabitants of the Province, obtained lands here, by grants from the Crown and purchases from grantees under the Crown, erected buildings thereon, and expended their money and their labour in clearing, cultivating and improving their farms. They were received as subjects, and admitted at once to the full enjoyment of all civil rights.

Three years afterwards, in consequence of their having been resident in, and under allegiance to the United States, the Provincial Legislature, in 1795, thought proper to suspend, for a limited time, the exercise of their right of eligibility; and in 1800 they suspended, for a similar length of time, their right of suffrage. These restrictive Acts, to which His Excellency alludes, as imposing qualifications upon these inhabitants, were predicated upon their character as subjects, recognizing the existence of their civil rights, even those which were thus temporarily suspended, and indeed implying that without such temporary suspension of them they might be still exercised immediately, and that they could of course come again into unrestricted exercise, after the expiration of the limited term of suspension. The preamble of the first of those qualification Acts, the 35th Geo. 3d, cap. 2, was in these words—"Whereas many natural born subjects of His Majesty, who have sworn allegiance to other States or Powers, and been resident in the dominions of the same, have been induced, or may hereafter be induced, by the excellency and lenity of His Majesty's Government, to become inhabitants of this Province: and whereas it is expedient that such persons should be *immediately* admitted to *all* the privileges of British subjects, therefore be it enacted &c. that "*from and after the passing of this Act,*" they shall not be *eligible* &c. "*until such person or persons shall have resided for and during the space of seven years next ensuing the day of his coming into and settling as a subject in the said Province.*" Here is an acknowledgment of them as *subjects*. This Provincial Statute, thus acknowledging them to be subjects, by His Majesty's Representatives in the Province; and, being transmitted to the Secretary of State, in the manner prescribed by the Constitution, and not thereupon disallowed within two years, it thereby received the sanction of His Majesty himself and his ministers. The Act now proposed to be passed, for the acknowledgment of these persons as subjects, under the same qualification, may be more formal and explicit, but cannot be more constitutional or obligatory.

It is observed, that the Provincial Acts of restriction applied only to the rights of eligibility and suffrage. They did not restrict or suspend, even for a limited time the capacity of these inhabitants to hold land, of which they were then, and from the commencement of the Province have ever been, in the actual and undisturbed possession, and in the exercise of which, they have taken, held, conveyed, and transmitted innumerable tracts of land, until a large proportion, probably one half of all

the improved farms in the Province, are now held under these Anglo-American titles, and must stand or fall together.

At every succeeding election of Parliamentary Representatives, freeholders of this description personally, and upon such freehold qualifications, have enjoyed the right of suffrage: and I believe every succeeding House of Assembly has contained members of this description, and almost every member, elected by the votes of such electors.

The militia laws have considered them to be subjects, and as such, have required them, under penalties, to serve in the militia, and they did, in fact, during the war, serve in defence of the Province against the United States.

If, after all this, they should now, by a retrospective and reversing interpretation of the laws, be condemned as *intruders*, *usurpers*, and *aliens*, it would be the grossest breach of public faith, that ever disgraced a civilized nation. It would, at the same time, amount to a declaration, that the whole proceedings of the British and Provincial Governments, relative to them, have been founded in ignorance and ill-faith. It would imply a censure upon the illustrious Pitt, and the other great men, who were the authors and advisers of those measures. It would particularly cast reproach upon General Simcoe, the sincere and zealous promoter of the settlement of the Province, whose name instead of being reproached, ought to be held in grateful remembrance.

Why should the proposed Act in one clause, declare this, "very considerable portion of the population of the Province," to be aliens, and, in the end, confer on them the rights of subjects? That would be passing sentence of condemnation on them, in order to have the satisfaction of pardoning them. It would, indeed, be killing them wantonly, for the sake of bringing them to life again.

If the existing Acts of recognition or naturalization of these inhabitants be not sufficiently explicit, let one be framed, in more definite and explicit terms, declaring them to be subjects, entitled to the civil rights and capacities, which they have long possessed and now enjoy, under the qualifications already imposed by law.—Such a legislative declaration or acknowledgment may set at rest any just apprehensions or doubts entertained on the subject; and it is fairly within the Lieutenant Governor's recommendation and authorized offer of the Royal Sanction. His Excellency has candidly expressed his persuasion that these inhabitants may be safely "*acknowledged as subjects, with no other qualifications than those which the Legislature of the Province has from time to time thought it expedient to impose.*" Whatever difference of opinion there may be as to the premises leading to such a conclusion, I trust every loyal and patriotic mind will concur with His Excellency in the conclusion itself, that it is safe to acknowledge them as subjects, entitled to civil rights and capacities, subject only to the qualifications now required by law. These qualifications are a residence of seven years, to be capable of voting as electors or eligible as members of Assembly, and the perpetual ineligibility of those of them, who have held official situations in the United States. Although I feel no doubt that they are now subjects, entitled to all civil rights thus qualified; yet, to set at rest forever all apprehensions and doubts existing in any quarter on this delicate subject, I hope such a Bill of acknowledgment may pass both Houses, and receive from His Excellency the proffered Royal Assent.

ANGLO-AMERICANUS.

The Speeches of Messrs. Rolph, Bidwell, Beardsley, &c. in favour of the declaratory bill, were clear, argumentative, and convincing: but as this sketch is only intended to fill one sheet, no extracts can be given from them. All, however, was unavailing with the ministerialists—the amendment did not forward their favourite and long desired object, and it could never meet with their approbation.

The ministerial party, enraged by disappointment and despair, and finding a large majority of the House inflexible in their determination to support the rights

and privileges of the American emigrants to their fullest extent, immediately rallied all their forces, in-doors and out-of-doors, and assailed the conduct of the pre- use from all directions.—They were accused of declaring that to be true and that to be law, which was not law—and that too by the At- Statu- General unblushingly, as well as others in the House, although he had ac- Gen- ged himself guilty of the very inconsistency of which he was accusing the members of the declaratory bill, by drafting a null and void bill for the Executive, conf- recommending it to the House for adoption. This gentleman, in the course mery, he discussion, indulged in a national abuse of the Americans so gross as to dis- pol- ast all who heard him. The revolutionary patriots, the companions of the immortal WASHINGTON, he uniformly named as “rebels and traitors”—The United States’ soldiers who fought in the late war, he more than once termed “mur- derers.”

The Kingston Chronicle, a paper in the pay and confidence of the government, was the first to unveil, and openly avow the original design of the ministerialists; in doing which, it re-echoed the very language and sentiments of the Attorney General in the Lower House, and, we hear, of the Rev. Dr. Strachan in the Upper House. A person supposed also to be in the pay of the government, and who had long been waiting the issue of the alien question, with a hope that it would leave some vacant seats in the Assembly, now enraged by disappointment, could no longer conceal his real sentiments, and those of his party, and opened one common battery of the most foul and unjustifiable slander and abuse alike against the House and all the Anglo-Americans in the colony, under the signature of *Catharus*. This writer, finding all the insidious attempts of his friends in-doors to disfranchise the American emigrants, rendered abortive by the talents, the firmness, and patriotism of the Assembly, called aloud upon the Executive, through the columns of the Kingston demi-official Chronicle, to violate the laws of the land—to violate the faith of the government—to violate the uniform practice of nearly forty years—and to turn every American out of office and out of Parliament. His words are as follows :—

“Let all alien Americans, who now hold offices under the Crown, be immediately dismissed—let none but British subjects of approved integrity be appointed to the magistracy, to the office of sheriff, coroner, &c.—At a new election, let the sheriff, or returning officer, be instructed in their writs to admit none as candidates or voters but natural born subjects, or persons legally naturalized—but if by any chance, any individual of a different description happens to be returned, let the Executive dissolve the Assembly.”

In a colony where the Speaker, nearly half the Assembly, and it is thought at least two-thirds of the people, are American emigrants, such sentiments as the above, coming from a demi-official paper, must have created considerable sensation. Mr. Fothergill, then His Majesty’s printer, and an independent member of the Assembly, called the attention of the House to these publications, which, he said, were a gross libel on the House, and were sufficient to kindle a flame of rebellion in the country, inasmuch as they came from a demi-official paper, notoriously in the pay of the government, at a critical time, when rumours were afloat that the government were about to deprive these people of their political rights—observing further, that this same paper had been libelling the House of Assembly, for the last twelve months. For these observations, Mr. F. was immediately dismissed from his situation, without a moment’s warning, by which act, the Executive seemed to give an additional sanction to the writings of *Catharus*, who became every day more daring—being aware that his slanders were sweet as honey to the ministerialists, and that the present House despised the idea of interfering with the liberty of the press.

In a few days afterwards, *Catharus* appeared again—repeated the above call upon the Executive to turn out every American, and under the type of the warnings

of Cassandra, before the destruction of Troy, threatens the colony with destruction, by the hands of the American settlers, if his warnings be not attended to.—His abuse of the American emigrants had now become shameful—the following are a few samples, in which he clearly points out the original object of the ministerialists with the alien question :—

“Let all alien Americans, who now hold offices under the crown, be immediately dismissed, &c. &c. For how can we expect men born under a Republican government, and of republican education and principles, to be heartily attached to any monarchical government, however excellent? How, then, can we expect American republicans to make loyal British subjects? &c. Can we with safety trust such men with political power? Their conduct and their language, [alluding to the members,] proves already that we cannot.”

But the following sentence comes to the marrow of the question :—

“*This will bring back our representation to its constitutional state*, from which it has, either by a mistaken confidence, or a culpable oversight, been permitted to depart.—I know these republicans well—I know their *apparent* placidity, and pliancy, and malleability, and their *real* cunning, and deceit and stubbornness—their *apparent* sincerity, and ingenuousness, and their *real* cant and hypocrisy—and I feel myself justified, by a thorough knowledge of their character, to declare to the whole British empire, and, if you please, to the whole world, that it is dangerous in the extreme to permit any of these republicans to hold any office of political trust or power under our government. Their whole history proves the correctness of my opinions; and I shall not cease warning the government, until my voice is heard, or until my warnings share the fate of Cassandra’s, who, although she always faithfully foretold the danger, never could obtain belief, until Troy was in flames.”

These sentiment, coming from a demi-official paper, at once dispelled the doubts that had existed about the original design of ministerialists, and confirmed, to all intents and purposes, the suspicions raised against them by a long chain of circumstances, but most particularly by the deception apparent on the very face of the alien bill itself. No doubt now remained that the whole proceedings on the question from the commencement, had been brought on by the ministerial party, in order to “bring back our representation to its constitutional state,” as *Catharus* observes, or, in other words, to deprive the American emigrants of the elective franchise.

While these things were going on out-of-doors, the Legislative Council took up the question with unusual diligence and warmth. They requested a free conference with the House of Assembly upon it; but the views of the two Houses ran so directly counter to each other, that nothing definitive could be effected. The Legislative Council then appointed a select committee to report upon the question, and a voluminous Report, which has since been printed at the office of John Carey, making 92 pages 8vo, and which is said to have been written by the Rev. Dr. Strachan, and revised and corrected by the Attorney General, was submitted and adopted.

The whole tenor of this report goes to argue, that the American emigrants ought not to enjoy the elective franchise, and dwells largely upon the old cuckoo cry of “treason and rebellion.” In one passage it says :—

“Hence it appears to your committee impossible that your honorable house can for a moment entertain this clause, which virtually places traitors to the king’s government, *the destroyers of our parents and friends during the American Revolution*, upon a footing with ourselves.”

Now as this passage has reference to the declaratory bill, which only includes all those Americans now residing in Upper Canada, it must appear evident from it, that the Legislative Council had no intention of complying with the despatch of Earl Bathurst, which positively includes all “such citizens of the United States, as

"being heretofore settled in Canada, are declared by the judgement of the courts of law, in England, and by the opinion of the law officers, to be aliens," without any reference to, or exception of, those who may have been "traitors to the king's government," or "the destroyers of the parents and friends" of these honorable legislative councillors, "during the American revolution."

This idea seems to be strengthened by the following passage in the same Report, in which the Legislative Council distinctly admit that this legislature has not the power to confer the civil rights, pretended to be conferred by the bill which was passed by them, and sent down to the Assembly for concurrence :—

"It is quite evident that this legislature has not power to enact laws repugnant to the constitution conferred upon us by the 31st of the late king. In cases not provided for by that law, we are at liberty to act, but no further. *In as far, therefore, as rights of property are concerned, we may proceed in affording ample security and protection. But, as respects civil rights, we can do nothing, but in accordance with the constitutional statute.* Now by this law, no persons are capable of voting at any election for a member to serve in the House of Assembly, in either of the provinces, or of being elected at any election, who shall not be of the full age of twenty-one years, and a natural born subject of His Majesty, or a subject of His Majesty naturalized by Act of the British parliament, &c."

It must appear surprising to any person possessed of common sense, how, with such sentiments, the Legislative Council could presume to pass a bill pretending to confer civil rights. Or, could any one imagine, after such an acknowledgement, that they would censure the Assembly for rejecting such a bill? Because, if any person, who is not a natural born subject, can alone be "*naturalized by Act of the British parliament,*" how could a provincial act be turned into an "act of the British parliament," by a despatch from Earl Bathurst—or by the mere *ipse dixit* of the King himself? Impossible. It is therefore to be inferred, that neither the legal advisers of the crown, nor the Legislative Council, had any intention of conferring the rights of elective franchise. They are by no means backward, however, in joining in the general endeavour of the disappointed advocates of this measure, to cast unjust odium on the House of Assembly, as will appear from the following passages in their Report :—

"The other branch of the legislature has thought fit to stand between the Royal Grace and those it was intended to benefit, and to propose measures subversive of every law that connects society together."

Again, speaking of the amendments to their alien bill, or the declaratory bill passed by the Assembly, they say :—"These amendments attempt to sap the foundation of society, and to consider the duty of allegiance as a relic of tyranny." That these are the foulest aspersions ever thrown out by one branch of any civilized legislature against another, must appear evident to any unbiassed person, who will take the trouble of reading these amendments, inserted in this sheet.

The session having now come to a close, His Excellency, in proroguing the parliament, chimes in with the general delusion of the ministerialists, and their unjust censure of the House of Assembly, in the following passage in his speech :

"I regret that the gracious recommendation of His Majesty in behalf of certain individuals of this province, whose civil rights are liable to question, has not been met in all the branches of the legislature, with the feeling it might have been expected to call forth; and that its object should have been defeated in any quarter, by a want of confidence, so difficult to reconcile with those unvarying expressions of gratitude to a most munificent government, which I have ever witnessed with the greatest satisfaction, from my knowledge of the paternal care and protection by which they were so abundantly deserved. I am unwilling to entertain the belief, that any considerable number of the people of this province can have been insensible to the kindness and protection which they have uniformly received from his Majesty's government; and I have, therefore, entire confidence that the good sense and good

feeling of those whom it was the wish of the government to relieve, will readily correct any *delusion* which may have been excited."

Now the "gracious recommendation" of His Majesty respecting "civil rights," has been received with feelings of gratitude by the Assembly, and it is further impossible that the "object" could have been defeated by them, or by any other "quarter," in this colony, when no "quarter" or authority in the colony has the power either to confer on aliens the civil rights of subjects, or to prevent the Imperial Legislature from so doing at any time they please. Therefore the "delusion" is evidently on the side of His Excellency himself, and those who have taken part with him in this legislative mockery, and the reflection upon the majority of the Assembly, in the allusion that no "considerable number of the people of this province can have been *insensible to the kindness and protection*, which they have uniformly received from His Majesty's government," was uncalled for, unmerited, and disingenuous.

Immediately after the prorogation of the Parliament, the advisers of His Excellency, knowing that their own conduct, and the inconsistency of the Executive Government, were likely to bring down upon both the heavy censure of a free press, and the disapprobation of the country at large—and with a view of backing the representations on the alien question, about to be sent home by the Executive, encouraged His Excellency to make a tour into the new settlements, in the Newcastle, Midland, and other Districts, where they thought a few *loyal Addresses*, might be got up, before the real state of affairs became generally known.

With this view, His Excellency and suit, with all his advisers, lay and ecclesiastical, put out on their journey. In the back settlements, they succeeded pretty well, and by the aid of a few local office-holders and expectants, got up some of the most ignorant and inflammatory matter ever presented to the representative of majesty in the shape of Addresses—all carefully couched, however, so as to reflect upon the conduct of the House of Assembly, on the alien question, with the exception of that from Mr. Robinson's late settlers. The following extract, from the Address of sundry inhabitant of the Newcastle District, is a good sample both of the matter and style of these Addresses generally:—

"We have lately perceived, with feelings of honest indignation, an attempt base, malicious, and *unfounded*, of rendering the government of your Excellency an object hostile to the best interests of the Province, we embrace this occasion to publicly convey to your Excellency and the country an abhorrence *at the* foul attempt, and beg most respectfully to avow that our sentiments are truly different to those expressed by some of the representatives of the people. We are faithful to our King, honest to our government, &c."

In the Durham Address, in speaking, as it is generally understood, of the House, they say:—"It is painful to advert to the *proceedings of a band of factious demagogues whose Acts perceptibly tend to disorganize society, to subvert legitimate authority, and to alienate men's minds from the constitutional government.*" All this inflammatory trash was most *graciously* answered by His Excellency, and officially gazetted.

In Kingston, however, they succeeded but poorly; for, although an Address was got up, the Herald positively asserts that in order to make up something like an ordinary number they had to procure the signatures of a set of apprentices and minors. The same paper asserts, that many persons signed the Address, without hearing it read, who are since mortified to find that it contained a censure upon the House of Assembly, whose conduct they heartily approved.

Thus in disgrace, discomfiture, and disappointment, has ended, so far, every attempt on the part of a set of ambitious, illiberal, and vindictive politicians—to deprive a brave, industrious, peaceable, and loyal people of the rights of freemen—rights, to the enjoyment of which, they have been invited by the government—rights of which they proved themselves worthy in times of

peril and distress—rights which they have enjoyed in uninterrupted quietude for nearly forty years.

It is but justice, however, to the character of His Excellency, and of the home government, here to state, that in whatever manner they may appear to have been implicated in this dark and deep design—this unwarranted and uncalled for interruption of the peace and happiness of an hitherto most peaceable and happy colony, and however His Excellency may have adopted arbitrary and high-handed measures against those who have, from principle, fearlessly opposed his advisers—the advocates of this unfortunate measure, yet public opinion acquits both His Excellency and the home government of any design against the liberty of the people, and rests the odium of such a trick upon the backs of a few deep and designing politicians, who have long nestled about the Colonial Executive—and who, like the fable of the snake and the countryman, the moment they have been warmed into existence by the fruit of the toils and the industry of the American emigrant farmers—the early pioneers of our forests—turned round upon their benefactors, and shed upon them the deadly poison of their political malice.

Want of time and means to publish more than one sheet at present compels the Editor to come to a close. But he hopes that enough has been said to convince every unbiased and dispassionate mind, that the Alien Question has been nothing but a snare—a hidden trap, with which to destroy the civil rights of the American emigrants in this colony—an apple of discord, with which first to divide the people, and then rule them with an iron rod—and that the conduct of the House of Assembly, from the first agitation of the question, has been such as to merit the approbation and gratitude of every man who loves his country.

Let then the people of Upper Canada be cool, patient, firm, and united—let them repose unlimited confidence in the wisdom and liberality of the Imperial Government—let them preserve a talented, patriotic, and independent House of Assembly—and they have nothing to fear from the snares of their enemies.

